

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 23-CR-00117 KG

EDWIN ROLANDO ORTEGA-ORTIZ

Defendant.

**ORDER GRANTING MOTION FOR SENTENCE REDUCTION PURSUANT TO  
18 U.S.C § 3582(c)(2)**

This matter comes before the Court upon Defendant, Edwin Rolando Ortega-Ortiz's, opposed motion brought under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered motion, the applicable law, the policy statement set forth at U.S.S.G. § 1B1.10 and the sentencing factors set forth in 18 U.S.C § 3553(a), to the extent that they are applicable, the Court GRANTS the motion.

On January 31, 2023, Mr. Ortega-Ortiz pled guilty to a one-count Information, charging Reentry of a Removed Alien, in violation of 8 U.S.C. § 1326(a)(1) and (2), 8 U.S.C. § 1326(b)(2). The Court imposed a sentence on June 13, 2023, committing Mr. Ortega-Ortiz to the custody of the Bureau of Prisons to a term of 18 months, based on a Total Offense Level 12 and Criminal History Category III, resulting in a Guideline sentencing range of 15-21 months. The Presentence Report, calculating the Criminal History Category, states:

### **Criminal History Computation**

22. The criminal convictions above result in a subtotal criminal history score of three.

23. The defendant committed the instant offense while under a criminal justice sentence for in Docket No.: 17CR64342; therefore, two points are added. USSG §4A1.1(d).

24. The total criminal history score is five. According to the sentencing table in USSG Chapter 5, Part A, a criminal history score of five establishes a criminal history category of III.

*Presentence Report* (Doc. 18) at 5. As of the date of his Motion for Sentence Reduction, (Doc. 30), Mr. Ortega-Ortiz has remained in custody. However, since the date Mr. Ortega-Ortiz's sentence was imposed, the United States Sentencing Commission amended the Sentencing Guidelines, and those amendments became effective November 1, 2023.

The amendment relevant to Mr. Ortega-Ortiz is Part A, which, for calculating the criminal history score, addresses:

“status points” for offenders, namely the additional criminal history points given to offenders for the fact of having committed the instant offense while under a criminal justice sentence. . . . Offenders with six or fewer criminal history points under subsection (a) through (d) will no longer receive “status points.” . . . [T]he amendment also reduced from two points to one point the “status points” assessed for offenders to whom the revised provision applies.

U.S. Sentencing Guidelines Manual, Supp. to App. C, Amendment 821 at 240-41 (2023). As noted above, Mr. Ortega-Ortiz criminal history score of 5 originally included 2 “status points.” Based on the applicable amendment, his criminal history score is reduced to 4 and, as a result, his Criminal History Category is reduced from III to II and the Guideline imprisonment range is now 12-18 months.<sup>1</sup>


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<sup>1</sup> “The Commission’s recent research suggests that “status points” improve the predictive value of the criminal history score less than the original Commission may have expected, suggesting that the treatment of “status points” under Chapter Four should be refined.” U.S. Sentencing Guidelines Manual, Supp. to App. C, Amendment 821 at 241 (2023).

Having again considered all the factors set forth in 18 U.S.C. § 3553(a)(1)-(7), including but not limited to the nature and circumstances surrounding Mr. Ortega-Ortiz's reentry after having been deported, in violation of 8 U.S.C. § 1326(a)(1) and (2), his history and characteristics as described in the PSR, the need to promote respect for the law and provide a just punishment, and for all the foregoing reasons, the Court GRANTS the motion and reduces Mr. Ortega-Ortiz's sentence.

Accordingly, it is ORDERED that Mr. Ortega-Ortiz's previously imposed sentence of 18 months is reduced to 15 months or time-served, whichever is less. Except as otherwise provided, all provisions of the judgment entered June 13, 2023, (Doc. 27) shall remain in effect.

**IT IS SO ORDERED.**

  
UNITED STATES DISTRICT JUDGE